

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

LETTERS PATENT APPEAL NO.79 OF 2004
IN
WRIT PETITION NO.7696 OF 2003

Shri Dnyanoba Sahadu Kale & anr. .. Appellants

v/s.

Shri Laxman Maruti Kale & ors.

.. Respondents.

Mr.S.G.Deshmukh i/by Mr.R.N.Sanghavi for the
Appellants.

CORAM : R.M. LODHA AND
R.S. MOHITE, JJ.

DATED : 23rd March, 2005

P.C.

Heard.

2. The learned counsel for the appellants urged that the Additional Divisional Commissioner, Pune Division, Pune exercised the power of revision under section 257 of the Maharashtra Land Revenue Code, 1966 and that power having been exhausted by the Additional Commissioner, no further revision lay before the State Government and the order of the State Government dated 30th May, 2003 is without jurisdiction.

3. While making the aforesaid submission, the

learned counsel for the appellants overlooked the position that the State Government exercised its power under section 249(2) of the Maharashtra Land Revenue Code, 1966 and not the revisional power.

Section 249 of the Maharashtra Land Revenue Code,

1966 reads thus-

249. (1) An appeal against review or revision:-
 (1) An order passed in review or
 reversing any order shall be varying or
 the like manner as an original decision or
 order. appealable in

(2) An order passed in revision varying or
 reversing any order shall be appealable as
 if it were an order passed by the
 revisional authority in appeal.

4. Suffice it to observe that section 249(2) creates legal fiction whereby the order passed in revision reversing or varying the order of the subordinate authority is deemed in law as if the order has been passed in appeal and further appeal from such order is provided.

5. Turning now to the facts of the present case, aggrieved by the order of the Additional Collector, Pune passed in appeal on 4.9.2000 against the order of Sub-Divisional Officer, Sub-Division Pune, the present appellants preferred revision under section 257 of the Code. The said revision was disposed of by the Additional Commissioner, Pune Division on

12.4.2002. The Additional Commissioner set aside the order of the Additional Collector dated 4.9.2000. In other words, the revisional authority reversed the order of the Additional Collector passed in appeal. By virtue of sub-section (2) of section 249 of the Code, the order passed by the Additional Commissioner on 12.4.2002 in revision is deemed to be an order passed in appeal and against that order further appeal lay before the State Government under sub-section (2) of section 249.

6. No other point was canvassed. Letters Patent Appeal does not deserve to be entertained.
Dismissed in limine.

(R.M. LODHA, J.)

(R.S. MOHITE, J.)